

**LEGISLATURE AND GOVERNANCE****6**

# **LEGISLATURE AND GOVERNANCE:**

## **DISCUSSION PAPER**

### **TOWARD THE 5TH NATIONAL POLICY CONFERENCE**

#### **1. INTRODUCTION**

1. The ANC celebrates its one-hundred and fifth (105th) anniversary in 2017, which is a tremendous achievement for any organization. The liberation struggle fought by the ANC and South African people led to the 1994 democratic breakthrough. This was a hallmark of freedom for the people of South Africa.
2. The ANC's approach and leverage to power is informed by the Freedom Charter and the principle that "the people shall govern". Therefore the attainment of power by the ANC is a means to fulfil the will of the people by ensuring a better life for all. The ANC continues to earn the trust of our people and remains the premier political organisation for South Africans. The trust and confidence of the people must be sustained through ensuring that the ANC occupies a moral high ground at all times.
3. The core theme of the Legislature and Governance Policy Paper is the articulation of the people's power through the state institutions. It is an assertion by the ANC that people have entrusted the organisation with political power to advance the needs of the people, therefore the ANC's conduct in state institutions must always reflect the will of the people.
4. The state transformation agenda of the ANC aims to continue building a legitimate state that serves the interest of the overwhelming majority, which is based on a democratic constitution and a culture of human rights, and a state that uses public resources to better the lives of the majority, especially the poor.
5. The ANC is committed to building a corruption free state and is determined to root out corruption and criminality. The state must at all times champion and pursues the interests of all our people.
6. The broader task of social and economic transformation is far from over, therefore the ANC must retain and consolidate political power foster a much more radical transformation.
7. The Legislature and Governance policy paper addresses transformation of the state, specifically the capacity of the state, and it will consider the various ANC policies, progress with their implementation and the proposals for improvement. The ANC has endorsed the National Development Plan (NDP) and therefore it will inform and guide our approaches on building a capable state.
8. This policy discussion paper deals with the capacity of the state in respect of the political institutions



and state machinery, and amongst other deals with the following:

- i. Governance and legislatures at national, provincial and municipal level.
- ii. The macro configuration of the state.
- iii. Provinces, public service administration, planning coordination, service delivery and capacity building, including cadre development and
- iv. Municipal spatial planning, Urbanization and economic development.
- v. Governance of Institutions Supporting Democracy and State Owned Entities (SOEs).
- vi. The role and structure of traditional leadership.
- vii. The role of civil society, participatory democracy and reaching out to communities.

9. The Legislature and Governance Policy Discussion paper is part of the series of policy papers in preparation for the ANC Policy Conference. The Legislature and Governance paper does not purport to deal extensively with matters contained in other policy papers, but rather is informed and takes guidance from those policies. The Strategy and Tactics Paper guides our approach to the balance of forces, the current phase of the NDR, broad approach and objectives of state transformation. There are various other ANC policy papers that inform some of the approaches undertaken in this document.

## 2. THE OBJECTIVES OF STATE TRANSFORMATION

10. The principles and policy that guides the ANC approach to state and governance is set out in the Strategy and Tactics Policy paper, which articulates the objectives of the NDR. Strategy and Tactics provides a detailed policy perspective on the nature of the state, and this paper only highlights pertinent matters relating to governance.
11. The main goal of state transformation as articulated in the ANC's strategy and tactics is *"building a developmental state that provides effective basic services and with capabilities to take forward a far-reaching agenda of national economic development, whilst at the same time placing people and their involvement at the centre of this process"*. This objective is the guiding principle for the ANC's management of the State.
12. The democratic state must serve our people, listen to their needs and deliver in the most effective,

efficient, equitable and economic way possible, rather than focussing on the needs of the powerful and those whose only objective is to profit from access to state power.

13. Central to the role of state is the question of public resources allocation. The state must play a leading role in addressing the huge backlogs left by the apartheid regime, by harnessing the resources of the public sector. It must have capacity for strategic intervention in social and economic development.

## 3. HIGHLIGHTS AND GAINS OF THE ANC-LED DEMOCRATIC STATE

14. Guided by the Freedom Charter, the ANC led government has adopted a Constitution that builds a united, non-racial, non-sexist and a democratic state. The rights of all citizens are enshrined in the Constitution, and there are checks and balances that guarantee the protection of those rights, including through the courts.
15. The ANC in partnership with the people have brought massive change to the lives of our people, targeting the poor and most vulnerable. The government accelerated the provision of basic services such as water, housing, electricity, health care and a better education system. The government has provided basic water supply to over 9 million more people, access to basic sanitation to more than 6.4 million people and more than 4 million electricity connections to poor households. Water, energy, housing, sanitation, education and job creation are at the core of a better life for all.
16. The ANC government has managed the economy and state resources to drive transformation and create economic opportunities for the people of South Africa. In the past two decades South Africa has made remarkable development progress, almost doubling the GDP in real terms, lifting millions of people out of poverty into the middle classes, and greatly expanding access to services.
17. Since 1994, six million more people are working, with total employment at over 14 million. Government has embarked on a programme to provide the economic infrastructure necessary for the growth and development of South Africa.
18. The Traditional Leadership system is recognised in the Republic of South Africa by the Constitution. Chapter 12 of the Constitution provides for the recognition and role of the institution. Department of traditional affairs was established at national and



provincial governments, with the sole purpose of supporting the institution of traditional leadership.

19. The ANC government successfully established Institutions Supporting Democracy (ISDs) as crucial oversight mechanisms enshrined in the Constitution. These institutions are vibrant and effectively carry out their mandate in protecting our democratic system. South Africans continue to show support and have confidence in these institutions.
20. Our 257 democratic municipalities also facilitate bottom-up community interactions and participation to ensure that citizens have a say in their own development. Our system of developmental Local Government is premised on the active and balanced role of the community, civil society and the state at a local level.
21. Over the past two decades of democratic governance the people of South Africa have overwhelmingly voted the ANC into power in five National and Provincial elections and four Local Government elections. The people of South Africa have continued to affirm the ANC as the leader of our society.
22. This massive success has led to a new set of challenges, such as the quality of basic services as opposed to quantity, the rapid urbanisation and concomitant needs to extend services and infrastructure in urban areas and the expansion of the basket of social welfare support.
23. In the context of allocating scarce resources to unlimited needs, the ANC government finds itself pressured to find a dynamic balancing act to satisfy the new demands of the empowered while continuing eradicating poverty and uplifting the poor and the marginalised. Unfortunately, the economy is not growing at the commensurate pace to cater for the new challenges versus the backlogs of eradicating poverty. This illuminates the paradox of the success of our democratic state.

#### 4. CHALLENGES FACING THE SOUTH AFRICAN SOCIETY AND THE DEMOCRATIC STATE

24. Despite the highlights and gains of the democratic state, the challenges still facing South Africa are immense, with poverty, inequality and unemployment still affecting vast sections of our people. The ANC is not complacent about this enormous challenge and thus the resolve for accelerated transformation of the state. The ANC shares in the people's impatience to overcome the

decades-old crisis of un-employment, crime and poverty.

25. The greatest challenge confronting the democratic state and broader society is **poverty and inequality**. After two decades of democratic governance South Africa is still a highly unequal society where too many people live in poverty, while a minority are getting richer. To eliminate poverty and reduce in-equality the pace of economic growth and the inclusiveness of the economy in terms of ownership and participation has to change dramatically.
26. **Unemployment:** South Africa has one of the highest unemployment rates in the world, and faces a persistently high level of unemployment. Although South Africa has steadily created jobs over the past two decades, it has done so at a slower pace than the growth of the labour force.
27. **Youth unemployment** is highlighted as the matter of particular concern. There are young people aged 18 to 30 who are neither employed nor enrolled in education or training. Black youth are also challenged by the manner in which the labour market is evolving by locking out new entrants. Young people deserve better educational and economic opportunities.
28. The ANC is gravely concerned about the millions of South Africans who are jobless. The private sector is meant to be the primary creator of jobs in the economy, but government has come to realise that work opportunity creation cannot be left to the private sector alone. The gap between the jobs that are required and the jobs that the market can generate is too huge for the state not to intervene.
29. **Local Government Elections 2016:** The recent 2016 Local Government Elections highlighted among many other things, three critical challenges – unemployment, crime and corruption. These are the areas that affect the majority of South Africans on a daily basis. Unless they are definitively addressed, these socio-economic challenges threaten to erode the dignity that 1994 restored, and reverse the gains of the last two decades.
30. **Corruption:** The ANC has asserted that corruption is eroding the social fabric of our society and continues to undermine our development efforts. Corruption is a two way process, and corrupt practices are observed in both the public and private sector. The recent Auditor General's report highlights the unacceptable level of corruption in the public sector, made possible by lax controls. The report notes irregular expenditure of R25.7-billion across the country's national and provincial



departments and public entities. The magnitude of corruption in the public sector diverts much-needed and scarce resources from the upliftment of our communities. This high levels of corruption in our society are undermining development and social cohesion.

31. Corruption in the governance system is fast becoming the central threat to good governance at all levels of the state. Members of the public consistently raise concerns about this societal malaise, and there is general dissatisfaction about the resolve and determination of government to deal decisively with corruption. This is a matter that requires consistent and decisive action, with enforcement of strict measures without fear or favour. Corruption needs to be exposed and swift action taken, regardless of the seniority of the people involved.
32. The state's capacity is another evident challenge, caused primarily by weaker forms of coordination and collaboration within and across spheres of government and non- responsive public service. Furthermore, the NDP identifies critical areas of intervention ranging from distribution and location of powers and functions, two tier system of Local Government, regional service providers, capacity of the public service, political- administrative interface.
33. The State-Owned Entities (SOEs) are critical instruments of economic and social development and ultimately improving people's lives. The 'infrastructure' SOEs play a leading role in creating the economic and social infrastructure that drives our economy and society, such as electricity, rail transport, roads, water and provision of housing and schools. These entities manage significant capital expenditure budgets derived from tax payer's monies.
34. Some of the SOE's have been plagued by issues of poor governance and lack of appropriate oversight, compounded by weak capacity at Board and management levels. This has led to public discontent around possible corruption and mismanagement. Given the significance of the role played by these entities and the magnitude of the public resources under their control, there is an urgent need to improve and tighten the oversight and governance of SOE's.
35. South Africa is urbanising rapidly, the urban population is growing larger, younger and faster. The majority of the youth in South Africa live in urban areas. Various studies estimate that nearly 80% of the total population will be living in an

urban area by 2050. One of the biggest challenges of urbanization is the 'urbanisation of poverty' which is increasing, especially in townships, informal settlements and inner cities.

36. There is a large part of the population that lives in dispersed and impoverished rural settlements, many in the former apartheid homelands. In these areas poverty and unemployment are high and millions of people effectively rely on the state to meet their basic needs.
37. This means that South Africa is not reaping many of the developmental benefits of urbanisation. The challenge of rapid urbanisation requires sound planning for services and public facilities provided by the state, effective urban management, spatial planning, and regional development. The increasing urban populations requires additional public resources to cater for the demand of additional services. In order to address these challenges facing the urban system as a whole, from villages to metropolitan areas, Cabinet passed the Integrated Urban Development Framework (IUDF) which focusses on spatial integration, inclusivity, growth and improved governance.
38. All of the above challenges confirm the need for a radical transformation. This can only happen with the ANC retaining political power. The opposite would not only undermine and erode the gains of the past two decades, but it will fundamentally set back the agenda for radical economic changes required to create an equal society.

## 5. THE CONTEXT OF THE NATIONAL DEVELOPMENT PLAN

39. The ANC's 53rd Conference embraced the National Development Plan (NDP) and Vision 2030 as "a platform for united action by all South Africans to eradicate poverty, create full employment and reduce inequality as critical building blocks towards a truly united, non-racial, non-sexist, democratic and prosperous society."
40. The 2015 NGC reaffirmed that the NDP is the long term plan and the National Growth Path, Industrial Policy Action Plan, National Infrastructure Plan, and Medium Term Strategic Framework (MTSF) are Strategic Frameworks that identify the critical actions to be prioritised towards NDP 2030.
41. Advancing the NDP requires that we exploit to the maximum the strategic levers that are available to the state, such as, Legislation and regulations



(e.g. MPRDA); licensing (e.g. Mining, Water and Environment); BBBEE and Transformation Charters; National budget and Procurement; State-owned Companies and Development Finance Institutions; Government programmes for redistribution such as Land Reform. However, the State has not fully utilised these strategic levers to influence the behaviour of the private sector - to effectively transform the economy and society.

42. Chapter 13 of the National Development Plan (NDP), outlines the challenges in achieving a Developmental State, caused primarily by weaker forms of coordination and collaboration within and across spheres of government and a non-responsive public service. Furthermore, the NDP identifies critical areas of intervention ranging from distribution and location of powers and functions, the two tier system of Local Government, regional service providers, capacity of the public service, and the political- administrative interface amongst others.
43. Over the past 20 years the public sector has eroded the effectiveness and authority of the state due to over-decentralisation, as well as functions and resources were outsourced and distributed to the private sector. This makes it difficult to function as a developmental machinery and build capacity of the state. The ANC needs to comprehensively seek to review and overhaul public administration policy, in order to align with the policy intentions and ANC policy direction for next phase of transformation to 2030.

## 6 OVERVIEW OF PREVIOUS POLICIES

### 6.1 Previous policies

44. The previous ANC conferences have adopted key policy decisions that are central to the transformation of the state. This covers mostly the ANC resolutions of the 52nd National Conference, 3rd National General Council and 53rd National Conference and 4th NGC.
45. A number of policies have been adopted but not implemented – or not implemented in the spirit intended. Monitoring the implementation by ANC requires improvement and an internal institutional machinery to ensure that the ANC guides, monitors and ensures the implementation of conference resolutions.
46. The 53rd National Conference emphasised that *“to deepen the National Democratic Revolution, and accelerate service delivery and development, we need*

*a stronger developmental state and a more integrated cooperative governance system”.*

47. The 2015 National General Council further recognised that “Despite the significant success in configuring the new state, there are still contested issues requiring review and finality, including:
  - Functionality of the intergovernmental system;
  - Provinces: review of provinces;
  - Powers and functions of different spheres and the impact on effective service delivery;
48. The table on the next page provides a high-level categorisation of resolution and the status of implementation. This is not detailed and comprehensive.
49. The 53rd National Conference resolved on various strategic policy areas that impact on the configuration of government, provinces, local government and the functionality of intergovernmental system, covering the following:
  - Need for More Integrated Cooperative Governance;
  - Future of Provinces;
  - Differentiated Local Government Model;
  - Role of District Municipalities;
  - More effective governance in municipalities;
  - Strengthening Ward Committees as part of Community participation;
  - A review of the Local Government Financial System;
  - A review of the role, scope and composition of the MDB;
  - Strengthening systems to detect and act against corruption;
  - Strengthening Local Government Systems

## PROGRESS

50. **Need for More Integrated Cooperative Governance:** Despite the IGR structural mechanisms in place, coordination, integration and alignment across spheres of government remains a challenge. Integrated delivery of services is not possible when there are no central and predictable mechanisms for guiding and regulating the key performance areas of integration across these spheres.
51. There is limited progress registered in this policy areas. A fundamental review of the system



**TABLE ONE:** Progress with implementation of resolutions

| Policy Area                           | Content   | Progress   |
|---------------------------------------|---|--|
| Provinces and local government        | Review of provinces (reduce and strengthen) Powers and functions  | The Presidential commission still to be appointed. The task is outstanding.                                |
| Local Government                      | Viability of municipalities, Two tier system, Back to basics, capacity of municipalities, IDPs, districts, institutional reform | The key local government changes are still outstanding and will require urgent attention.                  |
| Intergovernmental Fiscal review       | Review of formula, allocations to municipalities, local government revenues, provincial allocations, national budget review     | The comprehensive review of the financial system and allocation of resources still outstanding.            |
| Demarcation of boundaries             | The demarcation act, outer boundaries, outstanding provincial boundaries  | This work is still outstanding.  |
| Traditional leadership                | Policy on traditional leadership  | Outstanding.   |
| Legislatures                          | Strengthening the legislatures  | Most resolutions were implemented  |
| Electoral system                      | Electoral system, formula for allocation of seats at local government, voting age   | The majority of the resolutions has been implemented. The formula for allocation of seats requires review. |
| Institutions supporting democracy     | Ad-hoc committee report, standardise conditions, funding  | Some of the resolutions were implemented. There are still outstanding matters.                             |
| Restructuring of state owned entities | Restructuring the mandates, oversight   | There is part implementation and key areas of restructuring are outstanding.                               |
| Public service administration         | Single public service, school of government, regulations, Gender Mainstreaming  | The resolution were partly implemented, however single public service is still outstanding.                |
| Cooperative governance                | Coordination, support, interventions in provinces and local government  | Partly implemented   |

would need to done, with the aim of developing legislations to guide and regulate inter-sphere actions. In this regard, the intergovernmental Relations Framework Act should be reviewed to address the distribution and location of powers and functions within and across three spheres of government.

52. **Provincial Governments:** There is limited progress on the resolution of reforming, reduction and strengthening provinces. The role provinces play in the intergovernmental system is complex and needs to be reviewed in the performance

of overlapping mandates, concurrent functions, accountability, oversight over Local Government and impact on service delivery and their role and contribution to spatial integration and achieving national developmental goals.

53. **Differentiated Local Government Model:** Local Government sphere is the most critical sphere of government in the delivery of government infrastructure investment and services to communities. Municipal space is the shared and most contested space by various government agencies, national and provincial departments. The



coherent and integrated state action in municipal space is critical to ensure that the delivery of social services, economic growth, stimulations of local economies and development recognises the different socio-geographic municipal spaces offer, e.g. Metropolitan and Secondary Cities, District roles and small rural towns.

54. **Role of District Municipalities:** Comprehensive review of District was undertaken by COGTA. Options for strengthened role of District, looking at shared services, review of powers and functions, funding model is currently being rolled out to test viable model for greater and strengthened role of District.
55. **A review of the role, scope and composition of the Municipal Demarcation Board:** some progress has been achieved on this matter. The panel of experts was appointed and undertook a comprehensive assessment on the role, functionality and mandate of the MDB. A new Board was reconstituted and a conference was held with all critical stakeholders to discuss these matters. Cogta is currently processing a Bill to address important issues related to the role scope and mandate of the MDB.

## 7, POLICY REVIEWS AND RECOMMENDATIONS

### 7.1 Government planning, performance and enforcement

56. This policy paper emphasizes the centrality of coordinated planning and enforcement that will ensure the required impact. There is clear evidence of sufficient policy provision developed and adopted by ANC. The missing link is coordinated planning and execution of the policies.
57. The ANC through national conferences, NGC's, Policy conferences, Makgotlas and the manifesto sets policy and priorities for government. The challenge is to ensure government is executing the ANC policies effectively and timeously.
58. The government through DPME has put in place monitoring and evaluations frameworks that enable the state to measure its impact and identify shortcomings.

### 7.2 Consolidating political power

59. The ANC must retain political power in order to preserve our democratic legacy and accelerate socio-economic transformation in order that we

can properly address our aims and objectives. Political power is attained not for its own sake, but to pursue political and socio-economic objectives.

60. The ANC contests elections to obtain a mandate from the people to exercise state power to advance a programme of national democratic transformation aimed at building a united, non-racial, non-sexist and prosperous society.
61. The results of 2016 Local Government elections led to a soul searching process within the ANC to explore why the ANC's national electoral support base had slipped to just above 50%. Whilst the ANC retains an absolute majority it found that many of its own supporters stayed away from the polls, reducing the turnout and having a negative effect on overall ANC support.
62. For the first time since 2000, the ANC lost control of municipalities in areas which have been ANC strongholds since 1994. These include the major urban areas of Johannesburg, Tshwane, Nelson Mandela Bay and Mogale City. The loss of control in other secondary cities has also added to a changing balance of forces in which the ANC finds itself in opposition in significant urban municipalities.
63. This is particularly worrying in that local government is critical to the consolidation of the gains of the National Democratic Revolution. Local level governance has a direct impact in changing people's lives.
64. There is no room for complacency, if further erosion of urban support takes place, combined with continued declines in turnout even only by a few percentage points, then the 2019 elections could pose a serious challenge for the ANC in terms of electoral support. The significance of Gauteng is that it generated more votes for the ANC than the Western Cape, Northern Cape, Free State and North West combined.
65. Consequently, our electoral strategy needs to become much more professional and sophisticated, and the ANC must clearly identify its targeted constituencies and ensure that they vote.
66. The ANC must see itself as a political party, contesting for political power and must show leadership in all sectors of society if it is to retain its leadership. That leadership must be demonstrated even when in opposition. The ANC in all areas in which it governs or not must be around projecting itself as the leading force for transformation and change.



67. The ANC has not adopted a formal policy on entering into coalitions with other parties in national, provincial or local government. However, since 1994 the ANC has entered into different arrangements at all three levels of government. Different circumstances and conditions have dictated different tactical positions.
68. The ANC must also prepare itself for the complicated relationships involved in coalition governments. Whilst the ANC has since 1994 been involved in coalitions or minority governments, these were previously restricted to smaller municipalities and the Western Cape.

### **POLICY RECOMMENDATIONS ON CONSOLIDATING POLITICAL POWER**

- i. The ANC must retain political power in order to preserve our democratic legacy and accelerate the socio-economic transformation in order that we can properly address our aims and objectives, which is the complete liberation of the country from all forms of discrimination and national oppression and to defend the democratic gains of the NDR. Therefore the ANC must develop an urgent plan and strategy to consolidate current power and win back the lost ground. The strategy must be clear and definite about consolidating power as a cardinal objective.
- ii. The ANC must professionalise its capacity to fight and win the elections, and create a dedicated full time political and technical capacity that undertakes ongoing mass media mobilisation, regular polling, and techniques of modern multi party electioneering such as projection of key leadership personalities.
- iii. Where the outcome of an election does not give the ANC an outright majority it must consider entering into coalitions or other forms of cooperation in order to advance the transformation agenda. Where the ANC enters into coalitions, its focus must always be aimed at transforming society and building a better life for all.
- iv. The ANC must convince coalition partners that our policies and programmes are the most developmental and serve the interests of our people the best. In all spheres of government, the ANC must lead and actively work to recruit opposition forces and coalition partners into becoming supporters and members of the ANC.
- v. Consistently winning elections depends crucially on the calibre of the cadres that are deployed to elected office, their integrity and commitment

to serving communities, and their performance while in office. The ANC must rigorously ensure that its candidates reflect these attributes, and establish mechanisms to hold them accountable for delivering on the ANC's elections manifestos.

- vi. **ANC electoral commission:** The ANC must investigate the establishment of an electoral commission. The electoral commission must ensure the following:
  - a. Ensure the ANC elected public representatives undergo a transparent selection and capacitation process to assume leadership and deployment.
  - b. To improve the quality, integrity, and sustainability of the selection and election of public representatives, from local to national sphere. This would incorporate much of what the "List Committee" deal with currently.
  - c. institutionalise and make transparent process that will reduce the possibility of current leadership organs from interfering with these processes.
  - d. Have its independent capacity to manage these very tedious processes, but that are essential to organisational unity and legitimacy, and quality of the public representatives that are put forward by the organisation for public elections.
- vii. A policy paper must be developed, detailing the appointment and composition, the core mandate and task of the commission. The accountability of commission must also be reflected on the policy paper. This task must be completed before the national conference of 2017.
- viii. **Mandate, accountability and reporting:** The ANC publicly elected representatives such as MPs, MPLs and councillors must know the ANC policies and broad strategic framework for transformation in their respective deployed sectors. This must inform them on how to transform the sector. When there a change in strategy or policy, elected representatives must consult and get a fresh mandate and direction from the organization. The ANC must also build its internal capacity to give policy direction to its elected representatives.
- ix. The ANC needs to improve and strengthen its relationships with civil society in particular business, trade unions and progressive NGOs.

### **7.3 Macro-configuration of government**

69. The ANC government established a constitutional framework with the architecture and configuration



of the state as a unitary state with decentralized form of governance arrangement in three spheres of government. The constitution provides for the principle of cooperative governance that binds and defines the interface within and across spheres of government.

70. South Africa's nine provinces and 257 municipalities are democratically elected governments in their own right. The Constitution confers public authority on them and instructs them to use that authority appropriately as agents of their residents and the country. The provincial and local spheres of government spend more than half of the total public budget. Much of this expenditure funds basic services and infrastructure needed to combat poverty and unemployment, improve living conditions and to stimulate economic growth.
71. Despite many areas of success, there are still areas that require attention to improve the functionality of the intergovernmental system and clarify the roles and functions of the different spheres of government. The enormity of the developmental challenges and the severe fiscal and other resource constraints we are facing, requires all our spheres of government to work together effectively and efficiently towards a common goal.
72. The shortcomings in the configuration of the centre of the state affects strategic state capability and impacts on democratic governance arrangements, as the existing central governance sector responsible for driving the public administration machinery at all three spheres, is not coherent, nor strategically configured.
73. To address the above challenges, In January 2007 Cabinet mandated the Ministry and Department of Cooperative Governance and Traditional Affairs (CoGTA) to develop a policy framework on provincial government and to review the policy framework on local government. A task team was appointed and it undertook public consultations and received submissions, the report was finalised and submitted to cabinet in 2009.
74. The review of provinces and local government undertaken by government looked at how well they were performing their mandates, whether their mandates were still the right ones in the current context, and what could be done to improve the effectiveness of these levels of government. The following is the summary of the highlights of the report:
  - i. **Findings on cooperative government:**
    - There is instability and uncertainty in the core roles and functions of the spheres;
    - The system of intergovernmental relations is evolving, but there are weaknesses in the institutional framework; and
    - The current regulatory framework for planning, spatial development and land use is ineffective.
  - ii. **Findings on provincial government:**
    - The creation of provinces contributed to transition, but their role remains uncertain; and
    - Provincial expenditure has achieved redistribution, but outcomes, performance and capacity are uneven across provinces.
  - iii. **Findings on local government:**
    - Municipal government is key to deepening democracy, social cohesion and building a non-racial and non-sexist society;
    - Accountability, efficiency, effectiveness, responsiveness and participation must be enhanced;
    - The two-tier system is complex and ineffective; and
    - Progress has been made in meeting basic needs, but there are challenges in finances, capacity and planning.
75. The findings showed that there were institutional and design issues hampering the effectiveness of the three-sphere system. Some of these were related to how the system has evolved over time and others are related to the economic constraints under which the system operates. Importantly, many of the issues relate to the shortcomings regarding human capital skills, leadership, commitment and accountability. These pressures and weaknesses have hampered both spheres in discharging their core mandates effectively and must be addressed.
76. The 52nd and 53rd National conference resolved that a presidential commission must be appointed to finalise the work on provinces. This task is still being addressed.
77. The previous ANC policy conferences, NEC Makgotla, NGC's and National Conferences, and now even the NDP have emphasized the need for strengthening intergovernmental coordination and collaboration, but in practice this is not happening. We need a more predictable and coordinated system of how policy and priorities are set and plans and budgets are developed, and implemented, within and across spheres of government.



**POLICY RECOMMENDATIONS ON  
MACRO CONFIGURATION**

- i. The Presidency is the strategic centre of governance. The strategic centre must be the central driver of:
  - a. Developmental state and the capacity of the state
  - b. The National development plan
  - c. Resource planning, prioritisation and allocation as per strategic objectives of NDP
  - d. Aligning the public service administration to deliver the core priorities of the state
  - e. Centre of coordinating other spheres of government and state owned entities to deliver state priorities.
- ii. The following core functions must form part of the strategic centre located within the Presidency, state policy and planning; resource allocation and prioritisation, cooperative governance, public administration and performance enforcement.
- iii. A dedicated and focused Department for State Policy and Planning needs to be considered in order to locate all planning functions, expertise and resources in order to address inequity and poverty through cogency of all organs of state.
- iv. Cooperative governance legislation must be enacted and it must pay attention to issues raised on the efficacy of provinces and national government support to provinces. The legislation must also harmonize powers and functions of provinces and local government.
- v. Develop a regulatory framework for accountability of Provincial Government, and pay attention to issues raised on the efficacy of provinces and the ability of national government support to provinces, including accountability for adherence to norms and standards, capacity requirements, expenditure and implementation of social programmes.
- vi. The strategic center of government in the Presidency must ensure that strong capacity is deployed in all branches of the state to ensure that the NDR is advanced. The merit principle must apply in senior appointments. The Centre of Government must establish a central organising machinery for optimal deployment of talent across the spheres of government become a clearing house for all senior appointments, succession planning and career development.
- vii. The Presidential Commission on Provinces must be fast tracked and finalize its report within the current administration.

**7.4 Managing municipal spaces  
for radical socio-economic  
transformation**

78. There is proliferation of spatial analysis of municipal space, e.g. PICC – SIPs spatial plans for infrastructure investments, National Transport Master Spatial Plan, Human Settlements National Spatial Master Plan, Provincial Government Spatial Plans and Municipal Spatial Development Framework, etc.
79. All these spatial plans are not targeting the same areas and emphasize different priorities, resulting in incoherent impact at local level. The other risks associated with incoherency and lack of decisiveness in government is that most development in cities and major areas is private sector led and government influence and directing of development is compromised.
80. The ANC must be at the forefront of guiding where development should go. But this requires nationally coherent spatial mapping of developments nodes and potential, and directing where government infrastructure investment should go to address spatial legacies of the past and achieving our national developmental agenda.
81. Within the context of addressing rapid urbanization, growing urban sprawl, the balance within urban and rural development, and the challenge of urban management – the Integrated Urban Development Framework provides a government-wide policy framework to create a shared understanding across government and society about how urbanisation should be managed to ensure resilience and inclusion. These challenges are found at all levels, from villages to metropolitan areas.
82. The primary priority is addressing spatial transformation, integration, inclusion and economic growth. It is of paramount concern that within the twenty years of democratic governance we have not been able to reverse the apartheid spatial legacy. The key issues affecting cities, metros and urban areas include the issues of rapid urbanization, informal settlements upgrades, spatial integration, urban management and issues associated with providing basic services and understanding the interest of an urban voter.

**POLICY RECOMMENDATIONS**

- i. The ANC must play a leading role in particularly the top 100 urban settlements to achieve the goals on integration, inclusion and economic growth.



- ii. ANC must initiate a Planning legislation that will address the following:
- A new predictable planning paradigm and discipline within and across spheres;
  - Clear national and provincial spatial plans aligned with municipal Spatial Development Frameworks and municipal land use management plans;
  - Streamlined coordination structures with clear roles and responsibilities in planning, budgeting, integration of plans and implementation modalities;
  - Strengthen Inter-sphere institutional coordination mechanisms;
  - Clear operational and implementation systems, processes and modalities.

## 7.5 Legislatures

83. Politically the ANC within the legislative sector has promoted robust oversight overseeing not just Executives but also robust oversight over policy implementation and impact assessment.
84. At Parliamentary level the Money Bills legislation has placed very specific responsibility on Parliament to ensure an established, resourced and well-functioning Budget Office, which today provides valuable service to Committees in their constitutional responsibilities to deal with the powers of amending the budget.
85. The Financial Management Act that covers both Parliament and the Provincial Legislatures has been passed which enables each legislature to have financial functions that over-see the budget and performance of the Legislative sector.
86. With regards to being an activist people centred model of legislature at Institutional level the Public Participation Model has been reviewed and improved. At the same time monitoring and evaluation frameworks in each legislature have been left to each to develop an appropriate model for itself.
87. Legislatures have during this period been in the forefront of the campaign against malpractices, maladministration and corruption. At Parliament level in order to ensure greater coordination and information sharing the Standing Committee on Public Accounts ensure that the HAWKS attend specific meetings where departments are brought before the Committee to account.
88. The Legislative sector is not immune from the instability in our Party constitutional structures and often with our alliance partners. This tends to

spill over negatively into the legislative sector and urgent steps and decisive action will be the only convincing response to this. Not doing so leads to accusations of unresponsiveness which if not addressed leads to problems we now have in many municipalities and a decline in electoral support.

## The ANC Caucus

89. The African National Congress in Parliament held its 5th Parliamentary Caucus Midterm Review Lekgotla from 7 to 9 October 2016 to take stock of its performance in Parliament, assess the progress of implementing the Movement's policies and programmes, confront and thrash out challenges and obstacles, and reinforce and intensify Parliament's activist role. The Midterm Lekgotla has committed to ensuring a radical shift and improvement in how we function in Parliament. The unanimous and unambiguous consensus emerging out of this Lekgotla is that it shall no longer be business as usual; the ANC in Parliament will in both words and deed, master the moral high ground, vigorously advance clean governance, champion the fight against corruption, shun incompetence and decisively deal with ill-discipline.
90. In this regard, the Midterm Lekgotla has directed the Office of the Chief Whip to build Members capacity, capacity, strengthen the political education committee strengthen particularly research support for study groups, ensure all MPs internalise the new House rules and enforce maximum discipline amongst all MPs.
91. For the ANC Parliamentary Caucus to be at the forefront of robust parliamentary oversight, will require highly disciplined, quality and capable Members of Parliament. In this regard, the Midterm Lekgotla has directed the Office of the Chief Whip to build Members capacity, capacity, strengthen the political education committee, strengthen particularly research support for study groups, ensure all MPs internalise the new House rules and enforce maximum discipline amongst all MPs.
92. The Whippy collective has put in place an attendance tracking and performance evaluation mechanism to deal with deviations and drastically curb absenteeism and discourage idleness.
93. The Lekgotla has resolved that MPs who are repeatedly found by the Caucus Disciplinary Committee to have repeatedly absconded or violated the code of conduct must be recommended to the ANC Deployment Committee, for their immediate removal from Parliament. The public deserves



representatives that takes their parliamentary tasks seriously and demonstrate commitment to serve. This harsher measure seeks to encourage diligence and uprightness, faithful presence in the House and Committees, and attitude of respect and accountability towards the electorate by MPs.

94. The caucus lekgotla has examined of how Parliament's currently discharges its constitutional responsibilities towards the public, it resolved to strongly recommend that the institution revisit its programming in relation to sessional work and constituency work. fifth Parliament
95. The Fifth Parliament has experienced a particular phenomenon in which there has been a conscious and dedicated attack upon the Constitutional integrity of the Institution. The Rules that have been democratically negotiated have on numerous occasions been wilfully flouted and the intention is to create in the minds of the nation an institution at war with itself. This is not the case as the overwhelming and more than 90% of the time the critical work of Parliament done in Committees has progressed. Notwithstanding this, the ANC Caucus has risen to the occasion not by degenerating the situation or responding but taking the debate to a higher level and ensuring that the work of Parliament continues. Corrective measures are being applied.
96. An overwhelming number of Bills have been passed since 2012 and together govern relations in society and between institutions. Where legislation has been sent back to Parliament by the Presidency or the Constitutional Court these have mainly been on procedural flaws in the NCOP cycle in passing legislation, which is the lack of proper public participation. Where the matter is of substantial nature and there have been a few further legal advice has been sought and the necessary amendments made.
97. During the 5th Parliament the matter of a Speaker of Parliament and not just of the National Assembly has been raised and this requires Policy consideration. At an administrative level we have one secretary but at a political level we have a speaker of the NA and a Chair of the NCOP.

### **National Council of Provinces (NCOP)**

98. In celebrating the 20 years of existence of the NCOP it is an opportune time to review the efficacy of this House of Parliament and assess whether it has functioned optimally in discharging its Constitutional mandate.
99. This discourse on the reflection of the NCOP

might, among others, provide an opportunity to reconfigure the House, or rather, repositioning the future role of the NCOP. The intended role of the NCOP ought to be examined closely. The NCOP plays an important role in realising the objectives of Chapter Three of the Constitution. It is also at the cutting edge of our system of intergovernmental relations.

100. Therefore key issues in the functioning of the NCOP require discussion. This has started with the tabling of a discussion document at the Mid Term Review Lekgotla of the ANC which seeks to address critical issues in terms of its functioning and relationships with the NA and the cohesion and coordination surrounding this. Similar questions with Salga arise as well and in particular the character of the representation in the NCOP. The NCOP should consider the submission of SALGA on how to become an effective institution representing municipalities. The capacity and policy requirement must be attended to ensure a stronger voice of local government.
101. The Traditional Leadership has also expressed an interest in linking up with the government system through the NCOP. This will possibly entail a role and participation of Traditional Leadership in the NCOP process. This matter must be considered with a view to looking at the benefits of representation of traditional leadership in the national legislative system.
102. Section 139 and 154 of the Constitution, dealing with interventions and support for municipalities, must be given priority in the NCOP. A system of ensuring tight support and monitoring mechanism designed for struggling municipalities must be put in place.

### **RECOMMENDATIONS ON LEGISLATURES**

- i. The Legislatures or legislative sector must undertake an assessment and analysis of the configuration of the legislative sector across all spheres of government. This assessment must focus on the efficacy of the legislative sectors. The assessment must establish whether the legislative sector is appropriately configured, adequately resources, optimally functioning and works cooperatively with other arms of the state across all spheres.
- ii. Alongside the 20 anniversary celebrations of the NCOP, the Constitutional role of the NCOP must be reviewed with the intention to strengthen the NCOP. Mechanisms must be developed to ensure NCOP plays a catalytic strategic role in articulating provinces and local government matters.



- iii. The ANC deployment list must take into consideration people's experience, capacity, skills and ability to execute Parliamentary work. The ANC must ensure the organisational and strategic capabilities that the ANC will require to give political, moral, and intellectual leadership in championing the developmental state.
  - iv. That the Mid Term Review Lekgotla of performance of the ANC Caucus and Parliament's performance as contained in the detailed Programme of Action of the Parliamentary Caucus must form the basis of taking forward the 2012 53rd National Conference resolution on Strengthening the Legislatures.
  - v. The three arms of state, are each led by a single office as prescribed by the Constitution, except for the Legislatures. The Executive and government are led by the State President, the Judiciary by the Chief Justice, while legislatures are led by the Speaker of the National Assembly and Chairperson of the NCOP. The consideration of the political institutional head of Parliament as a speaker of Parliament must be resolved upon.
  - vi. The Chief Whip and the Office of the Chief Whip of the majority party must be accorded the necessary political and institutional recognition. The proposal should be considered to make the ANC Chief Whip a Parliamentary Chief Whip. The ANC must look at the pros and cons of this proposal and guide the policy decision on this matter.
  - vii. The legislatures plays an important role in passing the budget. The allocation of resources to Parliament must be adequate and Parliament must build its own capacity to manage its finances.
  - viii. The ANC Caucus must effectively use Parliament to regain the confidence of our people in the run-up to the 2019 Elections. ANC Caucus must be at the forefront of championing the needs of the people and building the trust and confidence in the ANC led Democratic Developmental State.
  - ix. The political party funding legislation must be prioritised and introduced to the National Assembly.
- consequence, is that public enterprises should play a role towards the creation and/or strengthening of the South African developmental state.
104. The role of the state in economic development has moved far beyond the liberal orthodoxy that precluded active state involvement in the economy, towards one that allows an active role in targeted industrial sectors to enable long-term growth. However, it is important that SOEs function such that they become a success, in that they contribute towards fiscal and other broader objectives of Government without creating a fiscal burden. In this regard there is a need for a fine balance between positive social outcome and financial sustainability.
  105. The role of public enterprises in the South African economic development process has yet to be clearly defined and incorporated into policy. The state's developmental agenda must be enhanced through SOEs in order to ensure dedicated focused capacity of the state to deliver effectively and efficiently.
  106. The ANC government should be concerned with the agenda of SOE's, their mandate and functionality. The SOE's must be channelled towards the implementation of the objectives of the ANC democratic state.
  107. The Presidential SOE Coordinating Council must ensure the mandates of SOEs are aligned with the developmental state objectives. The coordinating council must also ensure that SOEs are implementing the NDP objectives.
  108. The challenge of weak leadership in both Executive and Non-Executive Board Members seems to be persistent and undermines the critical roles of SOEs. Government plays a critical role as a shareholder and executive authority. Coupled with this, allegations of corruption in the SOEs are also on the rise.
  109. SOEs with strategic parcels of land must make that land available for development when required to do so. There must be closer cooperation and collaboration between municipalities and SOEs on matters of development and land use.
  110. The ANC government must strengthen the oversight mechanism on SOEs. The ANC in Parliament must take the lead in ensuring this sector is properly managed and monitored. Secondly, policy interventions must be considered to strengthen the role of SOEs as developmental agents supporting the state. Clear role clarification

## 7.6 Governance of State Owned Enterprises (SOEs)

103. South Africa has declared itself to be a developmental state, meaning "an activist state that intervenes decisively in the economy with a generally progressive agenda". The point of departure, as a



must be provided. SOEs cannot be market competitive at the expense of development and the poor who cannot afford services.

Constitution together with the bodies which support it, are means which should take us to the realisation of the goals as enunciated in the Freedom Charter.

### **POLICY RECOMMENDATIONS**

- i. Legislature & Governance to develop a protocol on oversight of SOEs by legislatures. The protocols, once approved by NEC, must be implemented in all legislatures. The Chief Whip should play a role monitoring the implementation of protocols.
- ii. The ANC must focus on the mandate and role of SOEs, and make necessary inputs and policy guides to the Presidential SOE council.
- iii. A policy paper on repositioning the SOEs as catalyst of socio-economic transformation must be developed. This must take into consideration the PRC recommendations.
- iv. Corruption must be uprooted in all SOEs. The legislatures in their oversight must pay attention to AG reports on corruption and make necessary follow-ups.
- v. SOEs must be compelled to report all corruption to the law enforcement agencies.
- vi. Government must audit the mandates of the major SOEs and ensure alignment with the development objectives of the state. Apartheid establishment laws and policies of SOEs must be replaced with developmental mandates.

114. Consideration of the establishment of a unitary single human rights body, recognising the importance of not losing sight of the guiding principles of the Constitution, and taking into account that international best practice suggests that a careful and informed approach be followed in assessing whether a unitary single human rights body is the best model.
115. Consideration of an assessment of the impact of work conducted by the ISDs on society and the realisation of the constitutional objectives. Further discussion and gathering of new empirical evidence on the performance of the ISDs in the light of the Preamble and founding provisions in the Constitution.
116. The cost implications of retaining the current model also need to be taken into account and limitations in respect of resources to sustain the current model.
117. An interrogation of how the ISDs challenge private power, which typically moves along racial and gender lines.
118. Consideration of the issue of oversight and collaboration between Parliament and ISDs.

### **7.7 Institutions Supporting Democracy (ISDs)**

111. The central political question that must be addressed is how these bodies assist us to fundamentally transform and democratise the State, its Administration, Judiciary and Legislature. In assessing their impact we must ask how the Chapter 9 bodies assist us to achieve the above and to address and overcome the material conditions of inequality for a genuinely united South Africa.
112. Our evaluation of Chapter 9 Institutions must be grounded on the ideological propositions of the NDR. In this regard we must depart from the premise that Chapter 9 Institutions are creatures of the Constitution. However the constitution itself, including its Human Rights bodies, must assist to overcome legacy of racial or national oppression of the black majority in general, and Africans in particular.
113. The Human Rights culture must be in constant conversation with the Liberation culture. The

### **7.8 Modernisation of the Public Service Administration**

119. The Public Administration and Management Act does not fully realize the Single Public Service. Although it enables individual transfers and secondments to take place between the spheres of government, it does not create the legal space for a major reorganization of government.
120. In order to address the lack of uniformity in the areas of administrative functionality amongst the three spheres, the public service has begun consultation on the standardised legal instruments for the implementation of the Public Administration Management Act, 2014, PAMA, which will be a significant game changer in bringing about a greater degree of uniformity through strategic minimum norms and standards within all three spheres of government.
121. PAMA links up the uniform implementation of Central Government's strategies around minimum



functionality of the state, in order to ensure seamless delivery to citizens. This addresses the ANC's vision of a single public service within a notion of joined-up government through uniform norms and standards. Irrespective of any future polity, PAMA can ensure that the visions of the NDP are met.

122. The public service transformation policies such as white paper on the transformation of the public service (1995), the white paper on transforming public service delivery (Batho Pele), 1997, white paper on public service training and education (1997) and the White Paper on Human Resources Management in the Public Service (1998) are core tenets of our transformation strategy.
123. The NDP have placed new challenges on the transformation of public service, therefore has necessitated a need for a new and aligned policy framework that will accelerate the transformation of public administration which encapsulated the policy intentions of the NDP.
124. The Intergovernmental Relations System reflects design issues hampering the effectiveness of the three sphere system. Importantly, many of the issues relate to the shortcomings in the human capital skills, leadership, commitment and accountability.

### **POLICY RECOMMENDATIONS ON MODERNISATION OF THE PUBLIC SERVICE ADMINISTRATION**

125. There is an urgent need to introduce new public administration reforms through a policy on the Modernisation of Public Administration. The reform objective is to strengthen the state and ensure citizens trust government to deliver services.
126. The vision of a single public service must be addressed and completed, by ensuring that the Public Administration Management Act, 2014, is fully implemented within all three spheres.
127. The Public Administration and Management Act must be reviewed to create the legal space for a major reorganization of government. It must be amended to create the basis for a progressive reorganization of the macro structure of government, which would deploy officials where they are most needed while progressively aligning conditions of service across the spheres.
128. The Technical Assistance Unit for Ethics and Integrity, as well as the Office of Standards and

Compliance must be established to oversee setting and implementation of norms and standards in public administration in all three spheres in order to move towards a productive and innovative government.

129. The National School of Government's priority should be to become a provider and facilitator for the public sector and a center of excellence of applied work-place education and training.
130. The school of government must be strengthened to train and retain public service employees in line with the priorities of the developmental state. The school must ensure that state employees are trained adequately to execute the mandate of service delivery and render high quality standard services. The school must be equipped with adequate resources. The school must play a key role in the senior management development and retraining current senior managers.

### **7.9 Capable State**

131. South Africa needs to focus on building a capable and developmental state. The experience of other countries shows that this cannot be done overnight and will need to be done over time. There are four areas where targeted action is particularly important:
  - i. Stabilise the political-administrative interface by ensuring deployment of capable and mature cadre. Build a professional public service that serves government, but is sufficiently protected against political patronage. This requires an clear understanding of the separate roles for the Executive of Government (Cabinet EAs) and that of the Administration of Government (AOs) ;
  - ii. Make the public service and local government careers of choice. Build a skilled and professional public service from both the top and the bottom. At senior levels, recruitment and management should be based on experience and expertise, while at junior levels the focus should be on developing the skills and expertise that will be necessary for future public service cohorts;
  - iii. Develop technical and specialist professional skills. Reinvigorate the state's role in producing the specialist technical skills that are essential to fulfil its core functions. Develop appropriate career paths for technical specialists;
  - iv. Take a proactive approach to improving relations between national, provincial and local government. The state needs to recognize the wide variation in capacity, particularly at municipal level, and devolve



greater responsibilities where capacity exists, while building capacity in other areas. Where capacity is more limited, particularly in many rural areas, municipalities should be allowed to focus on their core functions and not be burdened with too many extra responsibilities. A more pragmatic fit between roles and capacity will only partly resolve challenges in the intergovernmental system. It is inevitable that there will be disagreements about how responsibilities are divided, and national government should intervene when necessary to mediate disputes.

132. The ongoing transformation of the state includes engendering new doctrines, culture and practices as well as ensuring that state institutions reflect the demographics of the country, including appropriate representation of women and people with disability.

133. The need for a strong overarching institutional centre that actively has the power, to not only monitor and evaluate, but to also enforce policy adherence and program implementation in accordance with ANC policy and mandate.

134. The state must be able to lead society as a strong and legitimate state, which must enjoy the respect and confidence of the society, as it would need, at times, to take decisions in the interests of advancing economic justice to the benefit of society as whole which might appear to prejudice the interests of certain sectors.

135. The state must proactively engage all sectors of business, monopoly capital in all its forms, to encourage their participation in industrial expansion, economic growth and job creation.

136. New sectors arising from radical economic transformation must be guided and motivated to recapitalize and diversify to establish a new and transformed patriotic domestic ownership of the new economy. The state must, with the cooperation of labor, encourage foreign direct investment through industrialization programmes, emphasizing skills and technology transfer. Whilst pursuing economic integration, especially regional and continental, the state must ensure that the economic interests of the country are promoted.

137. Government must review and harmonise the laws and regulations and conditions which inhibit interventions of the developmental state to facilitate and fast track service delivery to our communities.

138. Government must drive a programme of professionalization of the public service. This programme must entail teaching public servants the philosophy and ethics of the development state based on progressive ideology and values. The DPSA and the School of government must drive the programme.

139. Public servants must be exposed to socio-economic challenges facing the communities and must be directed to address and resolve this challenges.

140. The state must create conducive conditions for public servants to discharge their responsibilities.

141. **State Communication:** Government must develop a capacity to communicate effectively the mandate of the development state and its delivery programmes. In this regard, reposition the GCIS as an effective government communicator.

142. **Secondary towns and abandoned industrial sites:** Government must consider the aggressive revival of declining secondary towns as key industrial zones. The abandoned industrial sites must also be revived and developed by government. This industrial sites must be allocated mostly to black business, with an objective to promote economic development in municipalities.

143. **State Owned Entities:** government must implement the State-Owned Entities review report in particular the reform and rationalization of SOEs. SOEs mandates must be aligned to the mandate of the state.

## 7.10 Traditional leaders

144. Traditional Leadership play a role closest to the people, and they are critical to social cohesion and building sustainable communities.

145. Traditional leaders raised concerns about the houses that their powers are not constitutionally secured. There are also concerns about inadequate resources provided by government to support the institution.

146. The most serious dissatisfaction is at local level - as already indicated, under apartheid, Traditional Leaders functioned as local government in many rural areas and it is clear that the role of traditional leaders has always been primarily local, revolving around land, production and the needs of communities.

147. The 51st Conference of the ANC resolved that



the institution of traditional leadership needs to be transformed so as to achieve full legitimacy, democracy, and accordingly respect and acceptance by all the people of our land; and that as such it has an important and integral role to play in the building of our new constitutional order.

148. In addition, the 53rd conference resolved the ANC NEC L&G Sub-committee should prepare a paper for the NEC to take a decision on outstanding issues on traditional affairs.

### **KEY OUTSTANDING POLICY ISSUES TO BE ADDRESSED URGENTLY**

149. There are number of issues on the institution of Traditional Leadership that are still outstanding for it to be fully functional. There is a need for the ANC to engage Traditional Leaders in order to address among others the following:

- a. Constitutional Amendment (Chapter 7 and 12) with regard to powers and functions of traditional leaders;
- b. Review of Municipal by-laws that inhibits freedom of cultural practices;
- c. Provide legislation and policy to harmonize working relations between traditional leadership and Municipalities;
- d. Review legislation on land so as to provide for the management of land by traditional councils and Khoi San including land ownership and to ensure sound working relationship between CPA's and other structures;
- e. Participation of traditional leaders (National House of Traditional Leaders) in the NCOP as part time delegates;
- f. Regulating Faith Based practices to be in line with the laws of the Country;
- g. Consider introducing a grant system for traditional leadership structures to ensure consistent support across provinces;
- h. Protecting the Rights of people including vulnerable groups in areas under traditional leadership; and
- i. Proposed ideal models of traditional leadership towards sustainable institution and development of communities.

### **RECOMMENDATIONS**

- i. The ANC must hold an urgent special consultative conference with traditional leaders to discuss and resolve the outstanding policy issues.
- ii. The conference outcomes must lead into government policy that will regularize traditional leadership issues and customs.
- iii. Based on the above, the ANC is bound by the

Constitution to observe the practices of the traditional leadership and ensure that the aspirations of both the rural and traditional communities are met.

- iv. The views of the traditional leaders as leaders in their own right in traditional communities should be considered seriously and that a balance should be found between recognition of traditional practices and their compliance with the basic tenets of the Constitution.
- v. The ANC must have a structured and ongoing engagements with CONTRALESA and ensure consensus and resolution on matters adversely impacting the traditional leadership.

### **7.11 Job Creation and Community Works Programme**

150. Public Employment Programmes (PEPs) are just one of numerous government initiatives that seek to intervene in the prevailing climate of sluggish economic growth and the resultant slow job creation. PEPs, including the Community Work Programme (CWP), are playing a key role in providing work opportunities in poor areas where markets are failing to do so. They ensure that the millions of South Africans who remain unemployed do not go to bed hungry.

151. The CWP, implemented in all nine provinces by the Department of Cooperative Governance, is a key initiative to mobilize communities in order to provide regular and predictable work opportunities at the local level. The purpose of the CWP is to provide an employment safety net for those without access to alternative work opportunities to lift them out of poverty. Participants receive a stipend in return for useful work that they undertake in their own communities.

152. In 2015/16, the programme gave work opportunities to 220 056 participants from 203 municipalities. Out the total number of CWP participants, women constituted 77%, youth: 42% and people with disabilities: 1%.

153. Also important to note is the fact that in 2015/16, approximately R1,7 billion (R1 675 772 787) went directly to participants in the form of stipends, enabling them to access numerous essentials that they would not otherwise have been able to access.

154. In addition to meeting its primary objective of providing work opportunities that have enabled participants from poor households to earn a wage and sustain their families, the CWP has yielded



other secondary benefits. Through the work that participants do in the poor communities where they live, the quality of life in these communities is significantly improved.

## **RECOMMENDATIONS**

- i. The state institutions must prioritise job creation opportunities in their procurement programmes. The essential positions or vacancies must be filled by the state institutions to minimize the scourge on unemployment. Labour maximisation methods should be prioritized in project executions. Every effort must be made to build and support the inclusion of small businesses and emerging enterprises.

### **7.12 Fighting corruption in the state and broader society**

155. There is a societal outcry regarding the problem of corruption in the organs of the state, and amongst those who occupy the public offices and the private sector. Both Corporates and civil society has, to certain extent, institutionalized corruption as part of life. In the past elections, this phenomenon has been a dominant feature and the ANC has undertaken to deal with the problem.
156. The corruption scandals of cartels involved in built environment during the 2010 world cup, the collusion of big confectionary conglomerates on bread price fixing and recently the manipulation of the South African currency by the major banks since 2007 demonstrate the extent of institutionalization of corruption in South Africa.
157. The private sector and the media have ignored these trends and instead construed them as collusion rather than corruption; this is contrary to the misgivings associated with the public perceptions of corruption.
158. The reported state of corruption in the organs of state and especially the SOEs and state entities and amongst public figures within the ranks of the ANC is gradually reducing public confidence in the public institutions. The notable increase in violent public protests may also be attributed to the perception that state institutions are somewhat corrupt.
159. The lack of action or inaction by the ANC as leader in society and Parliament caused regression in eradicating the scourge of corruption in society.

## **POLICY PROPOSALS ON DEALING WITH CORRUPTION**

160. The ANC leadership must be more effective to set an ethical culture within its ranks and outside. This requires a bold, radical step to root out loopholes for irregular or fraudulent practices within the ANC and in government.
161. Some of the remedial mechanisms aimed at increasing public confidence in public institutions and reduce corrupt practices were factored in the Public Administration and Management Bill but were removed eventually. Those provisions must be reviewed and included in the PAMA.
162. Ensure that both public servants and public representatives at all levels are barred from doing business with the state. It is important that those who serve in the state organs make a choice whether they want to be in business or remain servants of the people. This will reduce competition and open up more space for ordinary members of society whose only option is to venture into business.
163. Introduction and implementation of probity audits to all persons who want to stand for office of authority in all organs of the state and this should be extended to private sector through regulations. This will ensure that dubious characters are not appointed to corridors of power both in public and private office.
164. All persons who want to stand in public office, including the organs of people's power at a ward level, are compelled to declare their interests to prevent any form of corrupt behavior manifesting itself.
165. Leveraging of ICT platforms and tools to eliminate any red tape in the public systems and thus improve efficiency and effectiveness of the public institutions.
166. The public service and administration portfolio should fast track the establishment of integrity and ethics management office and build requisite capacity at all levels of government. The scope must extend to the SOEs.

### **7.13 General matters**

167. **Naturalized persons:** The President is indirectly elected from the National Assembly, as is the case of other Office Bearers, including Premiers in the Provinces and mayors in municipal councils. The issue of naturalized citizen is subject for debate. Should naturalized persons be allowed to take office as office bearers?



## **8. PROPOSED QUESTIONS FOR DISCUSSION**

The following are questions that are recommended as a guide for discussion by members of ANC, ANC leagues and Alliance partners:

- i. What progress has the ANC government made in transforming government broadly?
- ii. What role should ANC structures and Alliance partners play in supporting government in all three spheres.
- iii. How best can ANC structures and alliance support the ANC government in delivering services?
- iv. Is the public service structured or restructured in the manner that improve the lives of South African
- v. Are the ANC public elected representatives, councillors, members of provincial legislatures and members of parliament visible in the communities and addressing the needs of the people. Are this elected representatives effective in promoting representative and participatory democracy?
- vi. Do constituency offices address the needs of their respective constituencies?
- vii. Do the legislatures programme at the province and national reflect the societal challenges and public matters?
- viii. What are the key transformational issues required for the system of traditional leadership?
- ix. Is government planning well coordinated in the communities?
- x. How does ANC play effective opposition?





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